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Situation of human rights in Cambodia

Report of the Secretary-General

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I. Introduction

1. The Special Representative of the Secretary-General for Human Rights in Cambodia was appointed pursuant to Commission on Human Rights resolution 1993/6 of February 1993[1] to undertake the following tasks:

(a) To maintain contact with the Government and people of Cambodia;

(b) To guide and coordinate the United Nations human rights presence in Cambodia;

(c) To assist the Government in the promotion and protection of human rights.

2. The Secretary-General appointed Thomas Hammarberg (Sweden) as his Special Representative for Human Rights in Cambodia in 1996. Since he assumed his functions in May 1996, Mr. Hammarberg has undertaken 10 official missions to Cambodia and reported to the General Assembly and to the Commission on Human Rights.[2]

3. In its resolution 52/135 of 12 December 1997, the General Assembly took note with appreciation of the report of the Special Representative on the situation of human rights in Cambodia,[3] in particular his concerns for a legislative framework for the national elections and concerns about the problem of impunity, the independence of the judiciary and the establishment of the rule of law, the use of torture, the administration of prisons and the ill-treatment of prisoners and child prostitution and trafficking.

4. The Assembly further noted with serious concern the comments of the Special Representative concerning corrupt practices within the judicial system and in the prison administration. It stressed that addressing the continuing problem of impunity, including the repeal of article 51 of the law on civil servants of 1994, was a matter of critical and urgent priority.

5. The Assembly also expressed grave concern about the serious violations of human rights during the armed violence of early July 1997 and its aftermath and urged the Government to investigate thoroughly and impartially and to bring to justice those responsible for such serious crimes. It also urged the Government to take action to identify and bring to justice the perpetrators of the violence in Phnom Penh on 30 March 1997 against a peaceful demonstration which resulted in numerous deaths and injuries.

6. In its resolution 1998/60 of 17 April 1998,[4] the Commission on Human Rights reiterated much of the language of the General Assembly resolution and welcomed the legislative framework for elections adopted by the National Assembly, but called for the political atmosphere in the run-up to and during the election to be free from intimidation, for the armed forces to remain neutral, for free and equal access for all political parties to the electronic and print media, for the individual vote to be confidential, for full cooperation to be given to local and international observers and for all parties to act in a constructive manner and to accept the outcome of the elections.

7. Both the General Assembly and the Commission on Human Rights in their respective resolutions endorsed the comments of the Special Representative that the most serious human rights violations in Cambodia in recent history had been committed by the Khmer Rouge and noted with concern that no Khmer Rouge leader had been brought to account for his crimes. The Assembly requested the Secretary-General to examine the request by the Cambodian authorities for assistance in responding to past serious violations of Cambodian and international law, including the possibility of the appointment, by the Secretary-General, of a group of experts to evaluate the existing evidence and propose further measures, as a means of bringing about national reconciliation, strengthening democracy and addressing the issue of individual accountability.

8. The Assembly requested the Secretary-General to report to it at its fifty-third session on the role of the Office of the United Nations High Commissioner for Human Rights in assisting the Government and the people of Cambodia in the promotion and protection of human rights and on the recommendations made by the Special Representative on matters within his mandate. The present report is submitted pursuant to that request and is based on the eighth, ninth and tenth missions of the Special Representative to Cambodia. A brief report of the activities of the Cambodia Office of the High Commissioner for Human Rights (COHCHR) is included in section VI. Both reports were finalized in August 1998.

II. Eighth, ninth and tenth missions of the Special Representative of the Secretary-General for Human Rights in Cambodia

A. Eighth mission, 17–24 April and 2–13 May 1998

9. The mission focused on three areas: the problem of impunity, the upcoming elections, and the Khmer Rouge question. It also coincided with the one-week mission of the

two international experts in criminal investigation. That mission is described below. The Special Representative was received by His Majesty King Norodom Sihanouk in Siem Riep, and met with the President of the National Assembly, Chea Sim, and other senior government officials including Second Prime Minister Hun Sen, co-Minister of the Interior Sar Kheng, Secretary of State for Foreign Affairs Uch Kim An, and Secretary of State for Information Khieu Kanharith.

10. The Special Representative held discussions with the President and members of the National Electoral Committee (NEC) as well as leaders of major political parties. He also met with representatives of major non-governmental organizations (NGOs), including the Committee for Free and Fair Elections (COMFREL) and the Coalition for Free and Fair Elections (COFFEL).

11. The Special Representative met with members of the diplomatic community in Phnom Penh and Bangkok, including the ambassadors of the three member States of the Association of South-East Asian Nations constituting the so-called "ASEAN troika" for Cambodia, the Chief Electoral Observer for the European Union (EU) and several ambassadors of EU member States. He held discussions with the Personal Representative of the Secretary-General in Cambodia, Mr. Lakhan Mehrotra, the United Nations Resident Coordinator, Mr. Paul Matthews, and the staff of COHCHR, staff of its provincial offices and its newly established mobile monitoring teams. He also met the Foreign Minister of the Philippines and the Deputy Foreign Minister of Thailand.

12. The Special Representative undertook a field visit to the province of Kompong Cham, where he met with human rights NGOs, district authorities of Tboung Khmum district, political party representatives from the province, the President of the Provincial Electoral Committee and other high-level provincial authorities, including Governor Hun Neng, the Police Commissioner and several military commanders. He visited the provincial court where he held a meeting with the judges and the prosecutor.

13. During his seventh mission in January 1998, the Special Representative had expressed serious concern about the grave consequences of the delay in the investigations of the cases of extrajudicial executions and the 30 March 1997 grenade attack[5] and welcomed the Government's acceptance of the offer made by the High Commissioner to assist the investigation by locating international experts to assist.[6] In that regard, two experts, the former Director of the Federal Bureau of Investigation of India, Mr. Arun Bhagat, and Prof. Peter Burns from the University of British Columbia, Canada, and a member of the United Nations Committee against Torture, visited Cambodia from 19 to 25 April 1998 to assess progress made in the investigations and to clarify needs for further assistance. They were able to meet with relevant officials.

14. The report of the two experts was submitted to the Government by the Special Representative on 13 May 1998 along with a new memorandum updating the 21 August 1997 memorandum and documenting further cases of killings and disappearances since 2–6 July 1997. These documents were submitted to the Government confidentially, in accordance with established procedure. It was agreed that the Government would review the information and discuss the documents with the Special Representative two weeks after their submission and before they were made public.

15. The Special Representative raised with the Second Prime Minister, the NEC and other relevant authorities concerns about the upcoming elections which had been reported to him, including the widespread campaign to obtain promises of votes for the Cambodian People's Party through thumbprinting and oath-taking. He stated that such practices violated the spirit of the confidentiality of the vote.

16. With regard to the Khmer Rouge question, the Special Representative, in his meetings with His Majesty the King, senior government officials and leaders of political parties, recalled developments since the adoption by the Commission on Human Rights of resolution 1997/60 of 11 April 1997, the June 1997 letter of request from the two Prime Ministers, and the adoption of resolution 52/135 of 12 December 1997 by the General Assembly. He reiterated the commitment of the international community to assist in the process and discussed the next phase of the formation of the group of experts. The Special Representative was reassured of the unconditional support of all concerned for the initiative. He visited again the Documentation Centre of Cambodia.

B. Ninth mission, 31 May–5 June 1998

17. The main focus of the mission was on discussions with the Government on the documents submitted to it during the Special Representative's eighth visit: the memorandum on killings and disappearances since August 1997 (which included an update of the information contained in the August 1997 memorandum) and the report of the two experts in criminal investigation who visited Cambodia in April 1998. In addition, the Special Representative met diplomats, representatives of political parties, NGOs and United Nations and EU officials concerned with election preparation to discuss progress towards the 26 July elections.

18. The Special Representative met Second Prime Minister Hun Sen on 4 June. During the meeting, the Second Prime Minister acknowledged receipt of the two documents submitted on 13 May. He stated that he was favourably impressed by the report submitted by Mr. Bhagat and Prof. Burns and hoped that COHCHR would provide assistance to the Government in reforming the system of administration of justice as recommended by the two experts. He also informed the Special Representative of his intention to set up a Cambodian Human Rights Committee, which would have two main functions: the investigation of the human rights violations set out in the August 1997 and May 1998 memoranda and other such cases as arose, and the drafting of legislation which would lead to the establishment of a National Human Rights Commission. The Special Representative expressed the willingness of the Office of the High Commissioner to collaborate with the work of the Committee in every appropriate way.

19. In addition, the Special Representative met with General Teng Savon, the Deputy Commander of the National Police, and other senior police officials to discuss the report of the two experts as it related to the grenade attack of March 1997 and the murder of General Ho Sok in July 1997. Information was provided by the police officials on the status of the investigations and the difficulties which had been encountered in bringing these investigations to a satisfactory conclusion. The Special Representative expressed the view that a sense of urgency seemed to be lacking in these investigations, and strongly urged that they should continue and that determined efforts should be made to find and interview witnesses. He pointed out that, with the passing of time, witnesses' recollections become less clear and therefore less valuable.

20. With Co-Minister of Defence Tea Banh, the Special Representative discussed the memorandum and the experts' report as they related to the armed forces. He also raised the problem of the lack of discipline in the armed forces, citing instances in which soldiers carried arms in public places while off duty. He referred to a case in which a civilian was killed in army barracks in Kompong Cham in March 1998. He also commented on the continuing existence of illegal checkpoints: while these are fewer in number than last year, they still exist and impede people's right of freedom of movement. Some of these checkpoints are mobile or "flying" checkpoints. In response, the co-Minister stated that he had already issued instructions relating to the carrying of weapons which should be enforced by the gendarmerie. He said that he would establish a task force to address the issue of mobile checkpoints, and that he would investigate the Kompong Cham case. The Special Representative emphasized the need to demonstrate to the armed forces that lawless behaviour on their part would not be tolerated, and said that the disintegration of the Khmer Rouge provided a good opportunity to enforce discipline more strictly. He offered to make available experiences from other countries in this domain.

21. The Special Representative met the Ambassadors of the Philippines, Thailand, Indonesia, Singapore, the Republic of Korea, Australia and Japan. The Special Representative briefed the diplomatic community on his concerns about the preparations for the elections, mentioning the need to ensure that equitable access to the media is provided, that there be no intimidation, and that all politicians refrain from using language which might incite acts of violence against members of ethnic minorities. He also brought them up to date on the steps being taken to prepare for the establishment of proceedings against Khmer Rouge leaders.

22. The Special Representative had talks with the leaders of all parties with representatives in the current National Assembly. With each party, the Special Representative explored their concerns with regard to the preparations for the elections, and discussed with them their experiences during the voter registration process. Several leaders stated that they were generally satisfied with the functioning of the National Election Committee and the Provincial Election Commissions, while several cited instances of intimidation. The Special Representative reminded all the party leaders of the need to use established channels to bring complaints, in writing and thoroughly substantiated, to the notice of the National and Provincial Election Committees, and of the importance of avoiding language which might provoke hostility towards ethnic minorities, especially the Vietnamese community.

23. Together with staff of COHCHR and an NGO with which the office is cooperating, the Special Representative visited the Youth Rehabilitation Centre near Phnom Penh where about 40 boys aged between 10 and 18 are detained. These boys are detained without any legal process and the reasons for their detention vary widely, from vagrancy to petty crime to discipline problems at home. COHCHR is financing a project which will set up a system of hearings which will establish a legal framework for the detention, or for a non-custodial alternative, for these boys.

C. Tenth mission, 15–30 July 1998

24. The Special Representative focused on the human rights aspects of the electoral process. He travelled to the

provinces of Battambang, Pursat, Kampot and Prey Veng, where he met with representatives of major political parties, electoral officials from communal and provincial election committees, COMFREL and COFFEL, international observers, and provincial staff of COHCHR. In Phnom Penh, he had discussions with the President of NEC and representatives of the international community, including ambassadors, chief election observers, senior United Nations officials and staff of the Office of the United Nations High Commissioner for Human Rights.

25. On polling day, 26 July 1998, the Special Representative visited polling stations in Phnom Penh and Kandal province. The Special Representative commends highly the NGO election coalitions, in particular COMFREL, which had the largest presence throughout the country, for the role they played in voter education and election observation.

26. The Special Representative called on the political leadership of the country to take a strong stance against attempts at retribution that were being reported in the aftermath of the elections. He also drew the attention of the public to unresolved human rights problems and concerns. He called on the new Government to take action to investigate the cases of extrajudicial killings, to ensure the freedom of expression, and to combat discrimination against minorities.

27. The Special Representative outlined priority areas for the attention of the new Government in drawing up its human rights programme: building an effectively functioning justice system and putting an end to the cycle of impunity, paying urgent attention to the rights of women, children and minorities. The Special Representative emphasized in particular the role of women in public life. He regretted that issues concerning women had not figured in the election campaign and that there were few women political party candidates. The Special Representative also called on the international community to retain a strong commitment to human rights in Cambodia.

28. During his mission, the Special Representative also met with Sar Kheng, the co-Minister of the Interior, and discussed with him the conduct of the elections and the future human rights programme. The Special Representative raised concerns about a recent draft law on NGOs circulating within the Government, particularly about its potentially limiting and restrictive effect on NGOs which play an important role in society. He recommended renewed consideration of a previous draft, which had enjoyed the support of the co-Minister of the Interior.

29. The Special Representative held discussions with members of the governmental Cambodian Human Rights Committee. He met with Mr. Dith Munthy, newly appointed head of the Supreme Court, with whom he discussed obstacles to the independent functioning of the judiciary and the need for determined action to improve the situation. They also discussed article 51 of the Civil Servants Act, Mr. Munthy indicating his support for an amendment. The Special Representative also had discussions with several NGOs working on minority rights and children's rights. He paid another visit to the Cambodia Documentation Centre on the Khmer Rouge atrocities and discussed with its director the work of the United Nations group of experts.

III. Issues of special concern

A. Protection against political violence

30. In response to the Second Prime Minister's agreement to the proposal made by the High Commissioner for Human Rights in January 1998, two experts in the field of criminal investigation visited Cambodia from 18 to 25 April to assess the progress made in the investigations into the 30 March 1997 grenade attack and the extrajudicial killings of July and August 1997. The experts held discussions with officials from the Ministries of the Interior, Defence and Justice, the police, gendarmerie and courts. They examined investigation materials and other documents made available to them by both the Government and COHCHR. They met Mr. Sam Rainsy, one of the presumed targets of the grenade attack.

31. The experts noted that no serious investigation had begun in almost all instances, and in the two cases in which inquiries had been started – the grenade attack and the assassination of Secretary of State for the Interior Ho Sok – there was a lack of vigour and determination. They recognized the very serious needs in terms of professional training in both the police and the judiciary and the dire lack of appropriate material and financial resources. They cited a culture of impunity as one of the most serious obstacles to the establishment of a rule of law in the country. They stressed that only if the will to remedy the situation is manifested at the highest levels of Government is it likely to change.

32. Their 41-page memorandum updated several instances of killings and missing persons described in a previous memorandum (21 August 1997). It analysed evidence concerning the alleged torture and execution of soldiers by military forces of the National United Front for an Independent, Neutral, Peaceful and Cooperative Cambodia

(FUNCINPEC) on 5 and 6 July 1997. It also provided verified evidence concerning an additional 42 instances of killings and 7 disappearances which appeared to be politically motivated: in all but six cases the victims were members of the FUNCINPEC party; 28 of the 49 victims were middle-ranking or senior police or military officers or soldiers affiliated or formerly affiliated with the party; several of them were known to have been involved in the July 1997 fighting; most were veterans of the royalist resistance since the early 1970s; they were known to be closely associated with the senior FUNCINPEC security officers who were either executed after 6 July 1997 or managed to escape arrest and execution. The other victims were active and influential party activists or organizers at the village, commune or district level or civilians with no known political affiliation. Five, including four children, were killed presumably because they were relatives of soldiers involved in the FUNCINPEC armed opposition.

33. The memorandum noted that while there had been no serious efforts to investigate these incidents, government authorities had in many cases promptly concluded that they were robberies, personal disputes or acts of revenge. While many indeed had indications of such motives, the memorandum suggested that this might have been arranged so as to obscure a political motive; there could also have been mixed motives. The memorandum called for rigorous investigations to allow accurate and credible determinations in each case after consideration of all aspects. It stressed again that the problem of impunity, unless corrected, will continue to undermine efforts to establish the rule of law as well as public confidence in the judiciary. It noted that the violence of the past 10 months and the lack of investigation thereof had particular relevance to the upcoming elections.

34. The memorandum covered cases up to the end of March 1998. COHCHR initiated or pursued its investigation efforts into 16 additional killings, 3 attempted killings, 7 disappearances and 14 illegal detentions. Of these, at least 3 killings, 2 attempted killings, 4 disappearances and 13 arrests and detentions appeared to be politically motivated.

35. Other instances of serious human rights violations continued to be recorded and investigated by the office, many of them unrelated to politics. One case was the execution of a group of nine villagers by military personnel in Kompong Thom province on 2 April 1998. Evidence was also compiled of the excessive use of firearms, including the frequent lethal shooting by policemen of suspects during arrest or even after they had been apprehended. A common feature of these grave instances of abuse of power has been the impunity of the perpetrators.

36. On 4 June 1998 the Special Representative met again the Second Prime Minister. They discussed the two documents submitted on 13 May, and the Second Prime Minister referred to the imminent establishment of the Cambodian Human Rights Committee.

37. Concerning the necessary reform of the system of justice, he stressed the need to correct the overlap in the mandates of the judicial police and the gendarmerie, which had led to rivalries and refusals to cooperate, tensions and, in some cases, even armed confrontation between the two bodies. Conflicts, including armed threats, had also arisen between the gendarmerie and the courts making it difficult for the latter to work. He called for a redefinition of the mandates, particularly with respect to their relations with the prosecutors and the courts. He invited the United Nations to provide experts to assist the Government in these areas.

38. The Second Prime Minister stated that he welcomed the second memorandum as a thorough investigation into the cases presented. He declined to comment on its substance before he had carefully examined it. He stated that he was aware of many other instances of executions and killings which were not mentioned in the memoranda and should be investigated too. He proposed that all the incidents be collated and divided into two groups: those which had occurred during combat and the others. The Special Representative explained that all the cases presented in the two memoranda had occurred outside the context of combat. The Second Prime Minister pointed out that the information provided in the memorandum was not sufficient to prepare case files for prosecutions because the perpetrators were not identified. He stated that asking him to investigate these cases was "like throwing a needle into the ocean and asking him to retrieve it".

39. The Special Representative said that human rights investigations did not amount to criminal investigations; they presented, on the basis of carefully checked information, prima facie evidence of human rights violations, the investigation and prosecution of which was the responsibility of the Government. He stressed that part of his duty was to identify problematic areas, draw the attention of the Government to them and offer assistance for their resolutions. The Second Prime Minister welcomed international expertise from the United Nations to assist the Government in pursuing its judicial reform agenda and from the Cambodian Human Rights Committee in drafting the law to establish a National Human Rights Commission. He reiterated his September 1997 pledge that the 30 March 1997 grenade attack, the killings and other violations described in the two memoranda would be thoroughly investigated and

that no one found guilty of these crimes would be spared punishment.

40. On 8 June 1998, a provisional Cambodian Human Rights Committee (CHRC) was formally established by a sub-decree signed by the First and Second Prime Ministers who each appointed two representatives to the Committee as permanent members. Mr. Hun Sen appointed two of his advisers Mr. Om Yeng Tieng (Chairman) and Mr. Svay Sitha, and Mr. Ung Huot appointed Mr. Ouk Vannarith and Mr. Sandy de Montero. The Special Representative met the four Committee members on 30 July 1998. Its Chairman pledged to investigate all instances of human rights violations brought to its attention, including those mentioned in the two memoranda. Concerning the killings which occurred during the electoral campaign, he stated that the results of the investigations would be made public after the announcement of the final results of the election by the National Election Committee. He also informed the Special Representative of the Committee's plan to recruit several thousand human rights observers to monitor the human rights situation in the villages and mediate local disputes.

41. The Special Representative expressed the hope that the work of the Committee would be serious and reiterated his commitment to assist the Government's efforts, through the Committee, to investigate past human rights violations, to undertake a reform of the judiciary and to draft a law establishing an independent permanent National Human Rights Commission.

B. Human rights in relation to the electoral process

42. Article 25 of the International Covenant on Civil and Political Rights (ICCPR) provides that "[e]very citizen shall have the right ... (a) to take part in the conduct of public affairs, directly or through freely chosen representatives; (b) to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors ...". Several other rights are also crucial during elections, such as the rights to freedom of expression, freedom to receive information, freedom of association and freedom of assembly. In its General Comment No. 25 on Article 25 of the Covenant,[7] the Human Rights Committee stated that "[p]ersons entitled to vote must be free to vote for any candidate for election ... and free to support or to oppose government, without undue influence and coercion of any kind which may distort or inhibit the free expression of the elector's will".

43. Following the military confrontation and the removal of the First Prime Minister in July 1997, political party activities largely ceased. FUNCINPEC radio and television were shut down and a number of parliamentarians went into exile. Party signboards were removed. Individuals accused of involvement in the July fighting were actively sought. Senior and middle-ranking officials close to FUNCINPEC particularly in the armed forces and the police, were marginalized or pressured to change party affiliation.

44. In addition to acts of violence, the Special Representative was informed about widespread intimidation including, nightly visits to homes by soldiers or policemen enquiring about someone in the family, threats to "disappear" family members, confiscate land, or remove a family from the village register, threats of loss of employment, discrimination at work and summonses to appear before local authorities for questioning. Many of these threats were made by local officials and members of the official and unofficial security forces. It is the distinct impression of the Special Representative that a number of supporters of opposition parties, particularly in the countryside, experienced intimidation and did fear for their security during this period.

45. Beginning in March 1998 reports were received about campaigns by the Cambodian People's Party (CPP) to boost its membership through door-to-door solicitation of thumbprints and pledges to register and to vote for the CPP. Many of the thumbprints appeared to have been given under duress and often the person taking the thumbprints was the village chief, commune chief, member of the local militia or other local official. Many voters reported that they were told that if they cooperated, money and gifts would be provided, while if they refused to cooperate their security could not be guaranteed. It was also reported to the Special Representative that villagers were told that if a village showed its support in sufficient numbers it would receive development and humanitarian aid after the election, while if they refused they would receive nothing.

46. The Special Representative was also informed about the widespread collection of voter registration cards from persons who had registered to vote. Village chiefs, group chiefs or other local party officials went from house to house collecting registration cards. In some cases only the cards of those who had recently been thumbprinted as party members were collected. There were no reports that the cards were confiscated and they were reportedly returned in one or two days.

47. In early July 1998 the Special Representative received reports that a number of villagers and factory workers were

pressured to take part in mock elections. In this process, "voters" were given a copy of a ballot and then asked to place a mark next to the party for whom they intended to vote. The ballot was then collected by a local official or factory manager, who looked at the ballot to see for which party the person voted, thereby exposing the voter's political preference. It was reported that factory workers were threatened with the loss of their jobs if they voted for the opposition.

48. Thumbprinting, registration card collection and mock elections contributed to concerns that voters would not be convinced that their ballot would be secret. King Sihanouk issued a statement on 17 June appealing to voters to cast their votes according to their conscience and to ignore threats, pressure or intimidation from any person or political party. The NEC broadcast the same message repeatedly. Also, the voter education organized by NGO coalitions emphasized that the individual vote would be confidential.

49. In the days after the election, members of opposition parties reported to have received threats against their lives and property from local CPP officials and others associated with the party. A number of opposition party activists sought sanctuary in the national party offices in Phnom Penh, while others hid in the provincial party offices. Reports were received that some people were beaten. After an announcement by the Second Prime Minister urging party members not to carry out acts of retribution against members of other parties, the threats appeared to have decreased significantly.

50. Article 124 of the election law prohibits intimidation and/or undermining the secrecy of the ballot. In spite of the many well-documented complaints of intimidation, the police and the courts did not initiate investigations or take legal action during the election campaign. The NEC appears to have taken punitive action in one case: it ordered the confiscation of a voter card from a village chief in Siem Reap province after he had threatened several voters.

51. Until March 1998, when opposition parties were registered as legal political parties by the Ministry of the Interior, opposition parties were denied their rights under the Cambodian Constitution and international law. In March the Ministry registered 44 parties under the Law on Political Parties. This law gives registered parties the rights to operate, put up signs, receive funds, and generally to engage in political activities before, during and after the election period. In June the NEC registered 39 parties for the election. There were no significant complaints about these procedures, which appear to have been carried out according to national law and international norms.

52. Before the parties were officially recognized, opposition political activities were met with substantial resistance from local authorities. Particularly contentious were efforts to open new party offices and to put up party signs. These efforts were often met with threats and occasionally with violence.

53. Once opposition parties were legally recognized, senior party officials and candidates were able to campaign and travel freely. Parties were able to campaign and open party offices in Phnom Penh and most provincial towns. However, at the district, commune and village levels, lower-ranking party members and activists faced threats and intimidation. This was more in evidence in remote areas. In some districts and communes opposition party members were unable to operate at all because of threats or fears of violence.

54. One of the most common forms of intimidation were attacks on party signs, such as shooting at the sign or taking it down by force. In the pre-election period several dozen such attacks occurred and persons were intimidated by local officials or security forces to take signs down.

55. A serious case relating to a party sign was the summary arrest and conviction of Lim Eov Pheng in Kompong Cham. Mr. Lim's mother rented the second floor of the family house in O Reang Ov district to the Sam Rainsy Party. On 2 June Sam Rainsy officially opened the office. Late that night gunshots were fired at the party sign. On 3 June police came to the house and asked to search for weapons. On instructions from his mother, Mr. Lim went inside and brought out an AK-47 belonging to a relative. The magazine was kept separate from the gun. On 4 June the police summoned Mr. Lim to the police station and arrested him without a warrant. Initially, they planned to charge him with the shooting of the party sign, but reduced the charge to illegal possession of a firearm. On 8 June Mr. Lim was summarily found guilty and sentenced to one year in prison. This proceeding was held without any prior notice, without a lawyer and without any witnesses to prove that the gun was his. At the time of writing this report, Mr. Lim is in Kompong Cham prison awaiting the results of an appeal.

56. The voter registration process was generally considered a success as very large numbers of eligible voters registered. However, some problems were reported which may have limited the rights of persons to vote in the election. They included reports of armed soldiers, police and militia in and around registration stations in violation of the election law and local officials such as commune and village chiefs, militia and other unidentified persons standing outside registration stations with walkie-talkies, which were

perceived as intimidating. There were also reports that illicit registration took place before and after official hours and of extremely speedy registration of large groups of persons transported to registration stations by party officials, raising questions about the eligibility of such voters.

57. Structural problems with registration included the lack of consistency between the official calendar for opening and closing of registration offices and the actual dates; the fact that most registration officials were members of the same party; the very short period for registration (22–23 days); lack of information about when that period would occur; and widespread confusion about whether a person could register only near his or her residence. No arrangements were made to allow the significant number of eligible voters among the refugees at the Thai border to register. On 6 May the Office of the United Nations High Commissioner for Refugees suggested that the NEC make special arrangements for refugees to register, but no such arrangements were made. In addition, no provisions were made for the large numbers of overseas Cambodians to register and vote abroad.

58. The biggest issue relating to the voter registration was the alleged mass registration of ethnic Vietnamese persons who are not Cambodian citizens. Opposition parties and newspapers cited this as the most significant registration irregularity. While it is clear that many ethnic Vietnamese were registered en masse, it is unclear whether all of those persons were Cambodian citizens.

59. During the election campaign there was a pattern of discrimination against ethnic Vietnamese. During the registration period many were given ad hoc language tests "to determine their nationality" and then refused because of their accent or vocabulary, often in spite of producing proper identification or sufficient witnesses to register. The NEC, after complaints by opposition parties later deleted some ethnic Vietnamese from the voter registration on insufficient evidence or without the person affected being notified.

60. Most disturbing was the discriminatory and provocative behaviour of opposition parties and politicians. Many opposition newspapers printed lists of ethnic Vietnamese names asserting that such names were evidence that the person was not a Cambodian citizen. Some opposition politicians acted irresponsibly by campaigning on a theme of ethnic hatred. While it is fortunate that there do not appear to have been any acts of violence during the 1998 campaign as a result of such statements, ethnic hatred in Cambodia remains a powderkeg which could be ignited at any time under the wrong socio-political circumstances. Serious ethnic violence, which has occurred in past decades, could be the result. All politicians and public figures have a duty to ensure that the language they use cannot be understood as an incitement to acts of ethnically motivated violence or hatred.

61. A major area of concern was the lack of equitable access to the electronic media by all parties contesting the election. Freedom of expression is a basic human right and one that is essential if elections are to be free. For them to be fair there is also a need for equitable access to the media. The electronic media are the principal means by which to disseminate information during an electoral campaign. Voters need and have the right to receive information from all sources so that they can make an informed choice when casting their ballots.

62. Both before and during the electoral period, equal or equitable access to the broadcast media did not exist in Cambodia. All the television stations and all but one radio station are controlled by or affiliated with the CPP. FUNCINPEC was granted a radio licence only in June 1998, a little more than a month before the election. A radio station operated by the Son Sann faction of the Buddhist Liberal Democratic Party (BLDP) was looted during the 1997 fighting. A new licence was issued only in May 1998. Neither party was in fact able to set up a station prior to the election. The Sam Rainsy Party (and its predecessor, the Khmer Nation Party) has applied several times and has always been denied radio and TV licences.

63. Without access to the media small or opposition parties were disadvantaged in their attempts to disseminate their messages and propose policies to voters. Opposition politicians were either ignored or criticized in the existing electronic media. For example, when Prince Ranariddh returned from exile on 30 March 1998, no television or radio station in Cambodia broadcast the news.

64. A review of the main newscasts during the election period on State or quasi-State television stations showed a continuing lack of balance. In May 1998, CPP appeared 448 times, Reastr Niyum 91, FUNCINPEC 9 and the Sam Rainsy Party 5; in June members of the CPP appeared a total of 918 times, members of the Reastr Niyum 182 times, members of FUNCINPEC 39 times and members of the Sam Rainsy Party 19 times.

65. NEC regulations required all stations to cease partisan broadcasting beginning on 25 June, the start of the official one-month campaign period. State radio and television substantially complied, but other stations continued to broadcast biased news and messages.

66. During the official campaign period, State television and radio broadcast daily five-minute messages from each

of the 39 registered parties which supplied prepared audio or video tapes. These messages were broadcast without censorship. This was the only opportunity for small or opposition parties to use the electronic media to bring their messages directly to voters. However, many complained that the format – three hours of consecutive political party messages – was unattractive to viewers and listeners and that individual messages would be lost in a sea of similar messages. It is clear that these measures did not solve the problem of equitable access and did not correct the impact of the previous imbalance. It seems important that the NEC and other relevant authorities address this problem well before the next elections.

67. Beginning in late May 1998, the Special Representative issued regular reports on human rights in the electoral process. These factual reports were prepared by COHCHR on behalf of the Special Representative and made public on 1, 9, 17 and 28 July. During the period 20 May–25 July COHCHR received over 400 allegations of intimidation and violence related to the electoral process. Of these, 174 were actively investigated and as of 25 July, 82 of them had been confirmed or assessed credible to the extent that they required further inquiry. Several dozen others were proved groundless. Among the most significant instances investigated by the office were 29 killings, 2 attempted killings, 1 abduction attempt, 10 illegal arrests and detentions, and 12 instances of physical assault. In at least 5 killings and 2 attempted killings the motive appeared to be political. A dozen others were found not to be political and available information on the rest indicated that there might have been mixed motives.

C. The problem of impunity

68. The widespread phenomenon of impunity continues. It is legally protected in article 51 of the 1994 Law on Civil Servants, according to which authorization should be sought from the Council of Ministers or the head of the concerned institution prior to the prosecution or arrest of a civil servant, except in cases of *flagrante delicto*. The Minister of Justice has proposed that this provision be repealed or amended. In a letter addressed to the Minister of Defence on 22 June 1997, the Minister of Justice restricted the scope of article 51 by excluding its application to military personnel.

69. In a circular dated 11 March 1998, the Minister of Justice also instructed the presidents and prosecutors of provincial/municipal courts that the court should inform in writing the commander of a soldier involved in a criminal or civil case, and that the latter should then send the presumed offender to court or allow him to clarify a civil dispute. The circular further instructs that in case of failure to obtain cooperation from the commander, the presidents/prosecutors should immediately write to the Minister of Justice who will raise the issue with the Ministry of Defence.

70. These were positive steps though they may be interpreted as perpetuating the authority of military commanders to decide whether or not a soldier will be sent to court. Also, the circular does not lift the impunity enjoyed by commanders who themselves committed criminal offences. The Special Representative therefore continues to suggest that the Government consider repealing or amending article 51, as it constitutes a major obstacle to the establishment of the rule of law in the country by shielding from prosecution human rights violators within the government administrations.

71. A major problem relating to the problem of impunity in Cambodia is the fact that the crimes committed by the Khmer Rouge in the 1970s have gone unpunished. The Special Representative continued his efforts on this issue during the period covered by the present report. The General Assembly, in its resolution 52/135 requested the Secretary-General to examine the Government's request for assistance in this domain, and the Special Representative has recently assured himself of the continuing support of His Majesty King Norodom Sihanouk, the Prime Ministers and leaders of the opposition for proceedings based on international standards to be organized against the Khmer Rouge leadership.

72. Pursuant to resolution 52/135, a group of experts was appointed by the Secretary-General in August 1998, consisting of Sir Ninian Stephen, former Chief Justice Rajsoomer Lallah and Professor Steven Ratner. The group will undertake a mission to Cambodia in September 1998.

D. The rule of law and the independence of the judiciary

73. Some progress has been made to establish institutions called for by the Cambodian Constitution and essential for the strengthening of the rule of law. The Supreme Council of the Magistracy was convened for the first time in December 1997 and is now facing a heavy backlog. Its role is to oversee the functioning of the justice system, appoint judges, and decide on disciplinary action against court personnel when required.

74. The Law on the Constitutional Council was finally adopted in March. The main functions of this body are to

interpret the Constitution and to determine the constitutionality of laws. In addition to the three members appointed by the King in 1996, three members were appointed by the National Assembly and three by the Supreme Council of the Magistracy. There was considerable debate both about the legality of the appointment processes and about the qualifications of the individuals appointed. The Council members were eventually sworn in in June, although two of the members appointed by the King have since resigned and been replaced.

75. The Council was not established in time for it to review the constitutionality of the election law and the political parties law and to adjudicate complaints and appeals relating to the first stages of the electoral process. The Council met for the first time in early July to hear cases presented by the National Election Committee and the political parties. In the post-election period, many complaints about the electoral process were submitted to the Council.

76. The frequent interference of the executive in judicial matters and the lack of independence of the judiciary resulting therefrom has been mentioned by the Special Representative in previous reports. The problem remains.

77. The handling of the two court cases against H.R.H. Prince Norodom Ranariddh and his co-defendants in March 1998 naturally attracted particular attention. The Special Representative expressed concern that government leaders had been making public statements about the guilt of the defendant since early July 1997. International observers who attended the trials also raised questions about the proceedings. The fact that Prince Ranariddh was amnestied after conviction did not resolve these problems of principle.

78. New cases have been documented of intimidation, threats or use of violence against the courts by representatives of the executive branch with the apparent purpose of obstructing court decisions. In late June 1998, the Koh Kong provincial court was reportedly prevented from holding a hearing in a land dispute case in which the wife of the chief of the Koh Kong judicial police was a party. The chief of the judicial police attended the hearing with 10 policemen and disrupted the proceedings in such a manner that the chief judge was compelled to postpone the hearing indefinitely, since the judge and the prosecutor feared for their security if they continued handling the case.

79. The Special Representative has also been informed that on 10 June 1998, approximately 50 heavily armed gendarmes from Khan Daun Penh in Phnom Penh surrounded the Phnom Penh municipal court. Their intention was apparently to reverse the court's decision to release two suspects in a murder case. Evidence of torture in gendarmerie custody had earlier led the court to reject confessions made by the two men, which they themselves had also withdrawn, and to order their release in view of the lack of substantiated evidence against them. In order to avoid further confrontation and violence, the court was compelled to hand the two men over to the same gendarmerie unit rather than releasing them.

80. On the way to the gendarmerie headquarters, the two acquitted men were beaten and, upon arrival, severely tortured with the purpose of extracting confessions that they had committed the murder. The torture included beatings and electric shocks. The two men were kept illegally in detention at the gendarmerie headquarters until the following day when they were transported to T-3 prison, where they remain: the court was compelled to issue a warrant of detention for the two men, on the grounds that their detention was necessary to ensure their security.

81. The Special Representative welcomes the decision of the Government to remove a senior gendarmerie commander from his post and to suspend four other members of the gendarmerie unit involved in the case. The Special Representative regrets, however, the Phnom Penh court's subsequent decision to release on bail two gendarmes presumed also to be involved in the case. The Special Representative addressed a letter in July 1998 to the Minister of Defence who had requested their release on bail. The Minister's response of 12 August indicates that he regards military personnel still to be covered by a provision of impunity similar to that for civil servants under the 1994 Law on Civil Servants. This is a concern to the Special Representative and appears not to be consistent with the passing of the 1997 Law on General Statutes for Military Personnel and the letter from the Minister of Justice of June 1997 mentioned above.

82. As for the case related to the murder in November 1996 of Keo Samouth,[8] a relative of the Second Prime Minister, the trial of Srung Vong Vannak and his two co-defendants is still pending with the court of appeal. The three defendants have retracted their confessions and stated that they had been extracted under torture. Interviews in prison with the detainees have confirmed that the confessions, which are the main point of evidence against them, were indeed extracted under torture by Phnom Penh criminal police investigators. At a hearing in the court of appeal at the end of May 1998, the case was postponed on the grounds that witnesses for the defence had failed to appear. The Special Representative discussed with both His Majesty the King and with the Second Prime Minister the possibility of

granting an amnesty for the three accused if they themselves request it. Discussions on this case are continuing.

83. Developments in the case of Chau Sokhon give cause for concern.[9] Chau Sokhon was deputy chief of the Sihanoukville military police and known to be close to the FUNCINPEC party. In June 1997 and September 1997, he was sentenced by the Phnom Penh municipal court on a charge of drug trafficking to prison terms of 15 years and 3 years. The court of appeal overturned the sentences in late December 1997. The Prosecutor General subsequently lodged an appeal with the Supreme Court. The Supreme Court has so far been unable to handle the case, as the file has been with the Ministry of Justice since late December 1997. The appeals were lodged by the Prosecutor General at the end of January and in mid-February 1998. According to article 219 of the 1993 Criminal Law the Supreme Court clerk, immediately after receiving the appeals, should prepare the file and forward it to the President of the Supreme Court. Article 219 of the same law requires that the Supreme Court judge deal with a case within three months after receiving the file and documents from the clerk's office. The fact that the Supreme Court has not yet handled the case appears to violate article 14 (3) (c) of the International Covenant on Civil and Political Rights which guarantees the right to be tried without undue delay. Meanwhile, the fate of the three judges who handled the case in the court of appeal and who were suspended by the Ministry of Justice in December 1997 remains uncertain.

84. There is a need to clarify the role of the Ministry of Justice in relation to the working of the courts. A seminar on the Cambodian judiciary held in Hong Kong from 14 to 20 March 1998 organized by the Asian Legal Resource Centre suggested that the Ministry should not exercise any legislative or executive powers and not exercise any power at all over judges and prosecutors. The Law on the Statute of Magistrates, which is now in preparation, should ensure full independence of the judiciary in the exercise of judicial power and in the filing and conduct of public prosecutions.

85. Low salaries of court staff, detention in police custody exceeding the 48 hours authorized by law, disrespect for the pre-trial detention periods foreseen by law for minors, and lengthy periods of imprisonment for debts which should be recovered through a civil procedure are other problems that continue to affect the establishment of the rule of law in Cambodia.

E. Protection against torture

86. Torture and other forms of physical ill-treatment of persons held in police, military or gendarmerie custody has continued to be a serious problem. The problem is further compounded by institutional impunity, whereby perpetrators of torture are most of the time protected from prosecution or even disciplinary sanction. Although some positive steps have been taken by the Ministers of the Interior and Justice, the military hierarchy and the police to address blatant instances of torture, sustained efforts are needed to effectively protect persons in detention from being tortured.

87. Recent data compiled by human rights investigators based on interviews with several hundred detainees and prisoners indicate that at least one suspect out of five or six appears to be beaten or tortured during interrogation in police custody. The data also indicate that 92 per cent of the interviewees who were interrogated in police custody had confessed their imputed offence, though the extent to which these confessions were made voluntarily is not known. In Phnom Penh, for instance, persons interrogated by the Serious Crimes Department of the municipal police are routinely beaten or tortured. Several military units (without authority to arrest or detain) and gendarmerie personnel in Phnom Penh and Battambang have also used torture. In Koh Kong province, nearly half of 60 detainees interviewed by Cambodian human rights investigators complained of having been tortured in police custody, particularly in the districts of Bak Klang, Monduol Sema and Dang Tung.

88. The courts rely heavily on the police reports which are based primarily on these confessions. Except on a very few but notable occasions, prosecutors and judges have continued to accept evidence presented by the police as proof of guilt despite credible complaints of torture by the defendants and/or their defenders or lawyers. Judges have expressed fears of retaliation or of losing the already minimal cooperation they receive from the judicial police and gendarmerie.

89. In June 1997, the Special Representative submitted to the Government a report detailing over 30 instances of torture in Battambang's main district-level police station. He discussed the document with senior officials of the police and the Ministries of Justice and the Interior, in Phnom Penh and in Battambang, who promised to look into the problem. The Special Representative renewed these discussions when meeting the new provincial police commissioner in July 1998. He stated that in past year he had received further information about severe beating in that police station. The Special Representative has also been informed that

interrogators within the provincial police and the gendarmerie have been involved in torture to force detainees to confess. He notes that, to date, no police officer has been prosecuted or even disciplined for the well-documented cases of torture in Battambang.

90. In a recent case in Battambang province, a soldier accused of having stolen a necklace from another soldier in Division 6 base, Bavel district, was tortured to force him to confess his alleged theft and detained for over two months in a fuel tank at the military base. Repeated interventions by COHCHR and the provincial prosecutor, and a meeting between the Special Representative and the commander of the Fifth Military Region eventually secured the release of the soldier in late July 1998. The officer who ordered the torture and his subordinates who committed it were neither prosecuted nor disciplined.

91. The Ministers of the Interior and Justice have pursued their efforts to ensure that the police officers in Kroch Chhmar district, Kompong Cham province, who were responsible for torturing to death Liv Peng Harn are prosecuted. Liv Peng Harn was found dead in his cell with his legs shackled, his hands cuffed and his trousers around his neck. An autopsy ordered by the Ministry of Justice showed that six ribs in a row were broken in the upper left side. The first trial in 1997 failed to address the issue of torture as the cause of the death in custody. The district police inspector was given a two-year suspended prison sentence for having illegally arrested and detained the victim. The co-Ministers of the Interior, on 9 December 1997, ordered the provincial police commissioner to instruct five suspected police officers to present themselves to the court for investigation. On 23 February 1998, the co-Ministers authorized the provincial prosecutor to charge the five police officers with murder. On 10 April 1998, a second trial of five suspects, including the district police inspector, was held on the charge of murder.

92. The court ruled that the autopsy report contained no evidence that the six broken ribs had been caused by torture and that ill-treatment had caused the victim's death. At the trial the district policemen told the court a version of events identical to that put forward since the beginning of the case by the district police chief: that Liv Peng Harn had committed suicide by hanging himself with his trousers. The evidence that he was handcuffed and shackled when he was found dead in his cell, and that during interrogation he had been stripped of his clothes was not taken into account by the court. The Special Representative discussed the case with the judges and the prosecutor at the Kampong Cham court in May 1998. He welcomed the information that an appeal had been lodged against the verdict, as there were signs that the court personnel had been under pressure to ensure a favourable outcome for the five accused.

93. On 20 July 1998, Danh Teav, an official of the Ministry of the Interior working in the anti-terrorist police, was arrested with his wife by the police while returning home. Mr. Danh was a former intelligence operative who had joined the FUNCINPEC party and his wife was a National Assembly reserve candidate for Phnom Penh of the Sam Rainsy Party. She was later released. Danh Teav was detained and interrogated in the office of the Serious Crimes Department of the municipal police during the night. He was accused by police interrogators of having organized the murder of a businessman earlier in the year, an accusation he rejected. He was beaten until he fell unconscious and made to thumbprint a confession admitting his guilt. He was then accused by the police interrogators of the attempted murder on 8 June of the director of *Koh Santeapheap*, a pro-CPP newspaper. He rejected that accusation too and continued to be beaten, though he was never forced to sign a confession to the latter crime.

94. In the morning of 21 July he was brought to the Phnom Penh tribunal along with five other men, who had all been arrested in connection with the same case. They bore visible marks of beatings on their faces, backs and chests. The faces and clothes of several of them were stained with blood. They were interrogated by officials of the prosecutor's office and charged with murder, apparently solely on the basis of the confessions extracted under torture. The prosecutor ordered their detention for further investigation. For the next eight days Danh Teav was denied any outside contact, despite repeated requests by his lawyer and wife to see him. He was also denied medical care until 3 August, despite complaining of severe pain in the chest and sides when breathing, apparently to ensure that no signs of torture could be recorded.

95. Following his arrest, COHCHR pressed the police and judicial authorities to secure access by his lawyer and family to Danh Teav and his co-defendants. On 6 August, COHCHR was authorized by the Director of the National Police to interview Danh Teav in prison to monitor his conditions of arrest and detention. The interview with the detainee confirmed that he had been tortured. Medical examination confirmed severe pain in the chest while breathing and blood in the stool and urine 10 days after his ordeal. Other information obtained by the COHCHR indicates that the five other men had also been tortured in order to force them to implicate Danh Teav in the murder he was accused of. At the time of writing, Danh Teav is still detained in T-3 prison, awaiting trial.

96. In another documented case in Phnom Penh, three young boys aged 14 and 16 held in the Youth Rehabilitation Centre were whipped with an electric cable on several parts of the body by one known police officer and another official. This occurred in the presence of a group of children sharing their cell. A medical examination confirmed that the boys had been severely beaten.

97. The Special Representative acknowledges and welcomes the efforts by the Ministries of Justice, the Interior and Defence, and those of the national police and the Phnom Penh tribunal, to curb torture in several provinces and sanction perpetrators. There have been positive developments in Phnom Penh, Battambang, Kompong Cham and Koh Kong, as shown above. However, the lack of effective prosecution of prison and police officials against whom there is evidence of having tortured prisoners to death in Battambang, Prey Veng and Kompong Cham remains a very serious concern.

98. Further efforts by the Government are needed to demonstrate its determination to strictly enforce the prohibition of torture by police and military investigators, including through the prosecution of torturers. Such efforts, when demonstrated, should be encouraged and supported by the United Nations and the wider international community through technical and material support. The Special Representative recommends that the issue of the protection from torture, like the issue of protection from political and other violence by security personnel, be made a priority of the human rights agenda of the new Government.

F. Prison conditions

99. Insufficient food rations in the prisons continues to be a problem. Funds from the Ministry of the Interior to purchase food have been allocated late, compelling prison directors to borrow funds at high interest rates on the commercial market. The recent sharp increase in the prices of rice, fish and vegetables has caused a further deterioration in the food situation.

100. A medical report by the NGO Ligue combodgienne pour la protection et la défense des droits de l'homme (LICADHO) assessing the food situation in Cambodian prisons in June 1998 predicted that if food rations continue at the present level an outbreak of beriberi can be expected in the second half of the year, as well as an increase in infectious diseases. The report recommends the provision of supplementary food to prisons where food rations are so low that they do not cover the basic needs.

101. Continued efforts have been made to assist the Government in feeding its prisoners. At the request of COHCHR, the World Food Programme (WFP) will provide emergency rations from mid-June 1997 to the end of 1998 whenever a food crisis occurs in the prisons. Since June 1998, WFP has provided high-protein biscuits, donated by CARE-Australia and the Government of Norway, to supplement prisoners' diets. Such temporary provision of nutritional supplements in emergency situations by a United Nations agency cannot substitute for regular and adequate prison rations which it is the basic responsibility of a Government to provide.

102. In March 1997 the Government informed the Special Representative that an administrative reform simplifying and expediting the procedure for the allocation of food rations to the prisons was being set up. The Special Representative welcomed this effort and recommends that the new system be implemented as soon as possible, and that the Government also consider an increase in the monthly sum allocated per prisoner for the purchase of food.

103. The Special Representative is concerned about the great number of escapes from Cambodian prisons. It was reported to him that 46 prisoners have escaped from various prisons around the country since January 1998. In April 1998, 15 prisoners escaped from Kompong Speu prison by breaking the bars of one of the windows in the cell. Earlier in the same month, 25 prisoners escaped from Prey Veng prison, although 10 were recaptured within an hour; one of the recaptured prisoners was killed by another inmate. Factors explaining such a high number of escapes are the decayed state of the buildings and the absence of adequate security measures, overpopulation, insufficient numbers of police guards and their low salaries which make them vulnerable to corruption. The Special Representative raised his concerns with co-Minister of the Interior Sar Kheng in early June 1998. The co-Minister agreed that this issue should be treated as a priority and that immediate measures to prevent further escapes should be taken. It is recommended that increased collaboration be sought from agencies such as the Cambodian Criminal Justice Assistance Project, which is currently involved in the rehabilitation of prison buildings and assistance in prison administration.

104. The Special Representative welcomes the new prison regulations, signed by both co-Ministers of the Interior at the end of March 1998. These regulations set basic standards for food, health care, discipline and prison administration, on the basis of which prison procedures are currently also being worked out. The new prison regulations bring all prisons under the direct control of the Department of Prisons of the Ministry of the Interior, and makes access dependent on the

obtaining of an authorization from the head of the Department of Prisons. In recent months, this has facilitated access to places of detention by COHCHR staff. The Special Representative regrets, however, that in cases deemed to have political implications, decisions on access are referred by the Department of Prisons to higher authorities which are not empowered to take them. The Special Representative reminds the Government that the visiting of places of detention is part of the mandate of the Cambodia office, and reiterates his recommendation that such visits be facilitated by the Government.

G. Workers' rights

105. The Labour Code of 1997 continued to be ignored and violated by the management of different factories in 1998. Even such basic requirements as providing a copy of the Labour Code to workers is seldom fulfilled by management. The official number of labour inspectors at the Ministry of Labour, Social Affairs and Veterans is 100 but only about 12 in fact carry out inspections. This is not sufficient if the Ministry is to address labour disputes in a comprehensive manner. At the same time the Ministry has recognized that management has committed abuses and demanded that they be rectified.

106. Managements reportedly often force workers to work overtime and do not always compensate such work. If workers do not agree to the overtime they risk dismissal. Another common breach of the Labour Code is the failure to provide paid vacations and basic medical care. Respect for the minimum wage remains a problem in a number of garment factories, and collective bargaining agreements are not respected by management and physical and verbal abuse and threats by factory security personnel and management continue.

107. Organizing genuinely independent trade unions remains a serious concern. Management of factories make efforts to control or influence the organizing of unions. After more than a year, the Ministry of Labour, Social Affairs and Veterans has not completed the registration of a number of unions although the unions stated that they have submitted the required documents. Although, according to the non-governmental Cambodian Labour Organization, there are approximately 41 registered unions, the majority are not genuinely independent. Also according to the Cambodian Labour Organization, there have been 24 strikes in 17 different factories during the first six months of 1998. In most cases, amicable agreements were reached by all the parties.

H. Women's rights

108. Women make up the majority of the Cambodian population with 52.2 per cent of the estimated total of 10.7 million people in 1996 (source: National Institute of Statistics, 1996). The Cambodian Constitution protects the rights of women against all forms of discrimination and prohibits the exploitation of women in employment and by prostitution (arts. 45 and 46). Further, it recognizes and respects human rights as stipulated in the Charter of the United Nations, the Universal Declaration of Human Rights and the covenants and conventions relating to human rights, women's rights and children's rights (art. 31). However, the situation of women in Cambodia, in particular in relation to their education, health, participation in the political life of the country, conditions of work and violence against them, continues to be of deep concern and needs to be addressed as a matter of high priority.

109. Women took an active part in the 1998 elections. Most of the competing political parties have a women's department within their structure and pledge to address some of the issues involving women, such as trafficking and prostitution, education, health, poverty and leadership. However, few women have important positions within the major political parties. Although 5 political parties out of 39 were headed by women and most of the competing political parties had women candidates for the seats in the National Assembly, they were placed in low-ranking positions in the list of candidates. The new National Assembly will have 10 female members as compared with 112 males, which is clearly below the international average and represents only a slight improvement on the numbers of women in the previous Assembly.

110. The Special Representative calls on the new Government to pay particular attention to the condition of women in Cambodia and to allocate appropriate resources to the ministries which deal with women's issues, in particular the Ministry for Women's Affairs which has been awarded only 0.06 per cent of the national budget in 1998.

111. One issue which ought to be a top priority for the new Government is education for women. The Special Representative commends the efforts made so far by the Ministry of Education, NGOs and United Nations agencies such as the United Nations Educational, Scientific and Cultural Organization, the United Nations Children's Fund, the United Nations Population Fund and the United Nations Development Programme to try to improve access to education and its quality through the reform of the national curriculum, the development of new textbooks and manuals,

the training of teachers and the building of new schools. However, in 1998, the Ministry of Education was allocated only 6.59 per cent of the national budget. Programmes targeted at improving the school attendance of girls should be reinforced. Special attention should be given to addressing the high drop-out and low enrolment rates of girls at secondary and tertiary levels. Scholarships should be awarded to girls in difficulties.

112. Major progress has been accomplished in the field of health, with a wider vaccination coverage and expanded training of health workers. However, the health of Cambodian women is still very poor with malnutrition, lack of hygiene, frequent pregnancies and lack of access to health services, in particular in the rural areas. Women have little knowledge about birth-spacing methods and practices. The difficult access to health services and the cost of services and drugs make women rely more on drug vendors and traditional healers than on private practitioners and health centres, thereby increasing risks of health problems and mortality, especially during birth or when abortions are performed. Some 2,000 women die of pregnancy complications each year.

113. The Special Representative notes with appreciation the adoption on 6 October 1997 of the Law on Abortion which lays down the procedures and conditions for abortion. Only medical doctors, mid-level medical practitioners or midwives with authorization from the Ministry of Public Health may perform abortions which must take place inside an authorized hospital, health centre, public or private clinic or maternity clinic. Implementation of this law should reduce the practice of unsafe abortion and thus reduce abortion-related mortality.

114. The Cambodian Constitution guarantees that poor citizens shall receive free medical consultations in public hospitals, infirmaries and maternity clinics (art. 72) and that the State and society shall provide opportunities for women, especially those living in rural areas without adequate social support, to secure employment, medical care, education for their children and decent living conditions (art. 46). The Government plans to expand the number of rural health centres from the current 250 to 960 by the year 2002. However, there are very few health services that people can obtain for free, even at government health facilities, and very often those who cannot afford to pay are not appropriately cared for. Public health professionals' salaries are very low, contributing to lower-quality services. The Special Representative calls upon the Government as well as donor countries to continue their efforts to improve Cambodia's health system and in particular health services for the poor.

115. The continuous spread of HIV/AIDS is alarming. It is estimated that between 70,000 and 120,000 people are infected with HIV. Under current projections, between 500,000 and 1 million people could be infected with HIV/AIDS by the year 2006, according to the 1996 National Human Development Report for Cambodia, Cambodia has the second highest rate (after Thailand) of pregnant women with the virus. HIV prevalence among pregnant women is higher in the provinces of Rattanakiri, Battambang, Koh Kong and Kandal and in Phnom Penh. The Special Representative commends the efforts of the Cambodian Government, with the support of UNDP, to develop a strategy to combat HIV/AIDS through training and peer education. He also welcomes the efforts of many local NGOs to improve awareness of the threat of HIV/AIDS, to distribute condoms and to provide care services, together with Ministry of Health workers, to AIDS victims in their homes in Phnom Penh. However, greater efforts are needed to reduce the spread of the virus. Programmes of awareness targeted at the police, the military, women and commercial sex workers should be reinforced. Experience in other countries in combating the virus should be made available to the Cambodian people.

116. Cambodian women continue to be the target of violence and discrimination. Violence in the home remains of particular concern to the Special Representative. One NGO working with victims of domestic violence, Project Against Domestic Violence, receives an average of five new cases of domestic violence per month in its Phnom Penh office. The NGO Association des droits de l'homme et du développement au Cambodge (ADHOC) receives an average of 10 cases of domestic violence per month from its 17 provincial offices. According to a 1996 study by the Ministry of Women's Affairs, one in every six women interviewed reported physical abuse by her husband. Discrimination against women is particularly obvious in cases of domestic violence. The NGO Partnership Against Domestic Violence (PADV) reported that since its creation in 1995, few, if any, arrests have been made or penalties given to the husband who abuses his wife. Abuse often results in serious physical injuries or even death. The Special Representative again recommends that local authorities, policemen and court personnel pay particular attention to the problem of domestic violence and protect its victims. Training of policemen and court officials should be carried out regarding this issue and policewomen and female court officials should be recruited and trained. The Special Representative calls again for continued support to NGOs working to assist victims of domestic violence, as well as to improve the capacity of the Government and local authorities to protect victims.

117. The Special Representative is alarmed by reports of an increasing number of cases of rape. For the month of June 1998, the ADHOC received reports of five new cases of rape from five provinces. Other NGOs and COHCHR have regularly documented cases of rape, including involving children, and which sometimes result in death. Many cases of rape remain unknown as the victims are reluctant to complain; even when facts are established, authorities remain reluctant to take action. The Special Representative has been informed that the former director of the Koh Kong prison, who was removed from his position after it became known that he had raped a female detainee, has been given a senior police post in the province. In none of the cases reported so far by ADHOC has the perpetrator been arrested or punished according to the law, which provides a penalty of 5 to 10 years' imprisonment. The Special Representative recommends that the local authorities investigate seriously all cases of rape and bring the alleged perpetrators to justice.

I. Rights of the child

118. Cambodia has one of the youngest and fastest-growing populations in Asia. Children under the age of 14 account for 44 per cent of Cambodia's population. Improving children's access to quality education, improving the provision of health care for children, and protecting vulnerable children, in particular those caught up in prostitution and working children, remain challenges for Cambodia.

119. In February 1998, the Global March Against Child Labour passed through Cambodia. Government officials, NGOs, 550 Cambodian children and 47 other children participated in the Cambodian segment of the march; two Cambodian children participated in the entire march until it reached Geneva. Child labour in Cambodia remains a serious concern. Thousands of children are working as prostitutes, porters and workers in quarries, slaughterhouses, construction and brick factories. An example of the abuse of child labour is the case of a 14-year-old Cambodian girl working in a brick factory who lost her right arm and part of her shoulder when she was loading wet clay into a crushing machine and slipped. Children working in rubbish-dump areas suffer health problems and have less chance to get an education. Many children, in particular girls, work for their families, which can affect their school attendance. Household survey data suggest that about 18.2 per cent of children aged 5-17 work for pay or in family enterprises. The Special Representative calls upon the Government to ensure adequate safety conditions for working children and to outlaw those forms of child labour which are not acceptable.

120. Trafficking of children and women for the purpose of prostitution continues. The crackdown on brothels that occurred on a large scale in Phnom Penh in November 1997 and in Battambang in mid-January 1998 resulted in the closure of many brothels. According to the Inspectorate for Social Labour, 33 brothel owners have been arrested since the crackdown in Phnom Penh. The Cambodia office confirmed that, as of July 1998, 7 out of the 33 arrested had been tried and sentenced to 3-10 years' imprisonment; 15 others were awaiting trial at PJ and T-3 prisons in Phnom Penh. Many of the closed brothels became cafés, massage parlours or karaoke bars, continuing the prostitution business. NGO workers report that most of the child prostitutes are no longer visible, but are hidden until a client makes a request and agrees on the price. From November 1997 to July 1998, 563 prostitutes were taken out of the brothels in Phnom Penh; 175 of them were under 18 years old, and some were as young as 11. Many had been kept locked up, tortured and beaten in order to force them to have sex with customers. The majority of them were of Khmer origin.

121. With the concern over HIV/AIDS, many "customers" seek virgins or very young girls. The price of a virgin varies from $50 to $300. Thirty per cent of the estimated 15,000 prostitutes in Phnom Penh are under-age. Most come from poor provinces such as Prey Veng, Svay Rieng, Kandal and Kompong Cham where they are deceived and sold into prostitution. Allegations of collusion between brothel owners and authorities, including the police, have also been received by COHCHR.

122. In June 1998, following an investigation by ADHOC, one of the biggest brothel owners in Poipet, a town near the Thai border, had been arrested for the torture and murder of a young woman who refused to have sex with customers. Ten prostitutes witnessed the beating to death of the victim. Three of them were able to escape from the brothel owner and informed ADHOC and the police about the murder.

123. The Special Representative commends the arrest and prosecution of alleged brothel owners. Progress in the implementation of the Law on Suppression of Kidnapping, Trafficking and Exploitation of Human Persons is, however, slow and limited compared to the scale of the prostitution business. Many brothel owners avoid arrest and prosecution because of protection by officials. Some brothel owners in Kompong Cham and Kompong Som provinces reportedly told NGO workers that they usually pay $150 to $200 to policemen to avoid "disturbance". In Svay Pak, a brothel

area of Phnom Penh, it is the practice to give $600 to the police in order to open a café or bar that provides prostitutes to clients, then $100-$200 every month thereafter. Unless the problem of police and military protection of brothel owners is tackled seriously, the crackdown on brothels will have limited impact.

124. Poverty and violence in the home often drive children onto the streets. Although no precise data are available, it was estimated by NGOs working with children that there were more than 10,000 street children in Phnom Penh in 1997. Most of the children come from poor areas of provinces such as Prey Veng, Kandal, Kompong Cham and Svay Rieng. A recent phenomenon is the use of drugs, including glue and amphetamines, by street children. Street children are the targets of policemen who often beat them, arrest them and release them on the condition that they provide money varying between $15 and $20 every month. They are also easy targets of sexual abuse and exploitation.

125. The Special Representative supports the work of NGOs and others to assist street children. Programmes aiming at assisting their families, alleviating their poverty and caring for their health and physical security should continue to receive particular attention. Adequate funds should be made available for the Ministry of Social Affairs and local NGOs to enable them to continue and strengthen programmes aimed at finding a durable solution to the problem of street children.

126. In June 1998, 40 children were residents in the Youth Rehabilitation Centre, near Phnom Penh. The number of children held there varies from month to month. According to one NGO working with the children there, the conditions of detention have improved slightly. Children are given basic education, HIV/AIDS awareness and medical care by the NGO Organization Friends. Following a seminar on juvenile justice earlier this year, in which government officials participated extensively and expressed their interest in improving the Centre, the NGO Legal Aid of Cambodia (LAC), in cooperation with governmental authorities, has started a programme aimed at introducing regular and systematic judicial review of all cases involving children detained in or brought to the Centre. Up til now, children have been taken to the Centre for periods exceeding three months without being formally charged. The Special Representative visited the Youth Rehabilitation Centre in June 1998. He welcomes the cooperation between the authorities at the Centre and the local NGOs to improve the condition of the detained children and to set up basic procedures to deal with delinquent children. He continues to recommend the development of non-custodial alternatives and rehabilitation programmes. He especially recommends that children currently detained in provincial prisons be separated from adult prisoners and that adequate provision be made for them if they must remain in custody.

J. Rights of minorities

127. During voter registration, the campaign and polling, ethnic Vietnamese faced discrimination and incitement to hatred against them. Ethnic Vietnamese who had documents showing that their parents lived in Cambodia in the 1960s were turned away from registration stations, although some others registered without any documentation. During the campaign, some political parties used racist language and displayed an intolerance towards ethnic Vietnamese. The Special Representative expressed his concern publicly and appealed to political parties and the media to show respect and tolerance to those of different origins.

128. The United Nations Committee on the Elimination of Racial Discrimination considered the periodic report[10] submitted by the Royal Government of Cambodia on 16 and 17 March 1998. In its concluding observations[11] the Committee noted that the constitutional provisions for the protection of human rights only refer to the rights of Khmer citizens and that the 1996 Law on Nationality defined a Khmer national in a manner which makes it difficult for persons belonging to minority groups, in particular ethnic Vietnamese and indigenous people, to establish their citizenship.

129. The Committee concluded that the situation of the ethnic Vietnamese is a matter of concern and referred to racist propaganda directed against them, mainly from the Khmer Rouge. Furthermore, it pointed out that several massacres of ethnic Vietnamese, most of them attributed to the Khmer Rouge, had not been properly investigated.

130. In April 1998, a massacre occurred in a predominantly Vietnamese fishing village in Kompong Chhnang province. A total of 23 people were killed, 13 of whom were ethnic Vietnamese. The 40-50 attackers, who were allegedly Khmer Rouge, were reported to have screamed "kill the Vietnamese!" The victims included three children and a pregnant woman. Victims who claimed to be Khmer but who were told by the attackers they could not speak Khmer clearly were shot. This village was attacked three times by the Khmer Rouge before the 1993 national elections.

131. The Special Representative strongly condemns attacks against any ethnic minority and urges the authorities to bring those responsible for the attacks in April and July 1998 to justice.

132. The Committee on the Elimination of Racial Discrimination also expressed its concern about the indigenous peoples, referred to as Hill Tribes. It noted the existence of the Inter-Ministerial Committee and the draft National Policy on Highland People's Development and recommended an improved legal framework to clarify the legal status of these groups as well as to protect their rights, culture and traditional lands. The Committee suggested that no decision directly relating to the rights and interests of indigenous peoples be taken without their informed consent.

133. The Special Representative shares these concerns. The traditional lifestyles and livelihoods of Hill Tribes in the north-eastern provinces have been disrupted owing to the unabated illegal logging that is taking place. It has been reported by the NGO Global Witness that much of the illegal logging is carried out by the military. The Hill Tribes have begun to complain to provincial authorities but the authorities say they have little power to stop illegal logging.

134. The very large size of the concession areas granted to timber companies by the Government also disrupts traditional livelihoods. In February 1998, the Government terminated the 1.4 million hectare concession of one timber company because it had not yet begun cutting, and immediately began to divide the 1.4 million hectares into new concessions. One company was granted a new 350,000 hectare concession which includes land occupied by Hill Tribes. The World Bank has requested the Government not to grant new concessions until a project which it is sponsoring issues its recommendations to the Government on concession management, forest policy reform and illegal logging control. Experts have stated that the amount of land under concession is triple what it should be for forest sustainability. And a recent World Bank funded study concluded that if the new current forest harvesting rate is allowed to continue by way of new concessions and illegal logging, Cambodian forests will be essentially depleted within five years.

135. In response to the granting of the new 350,000 hectare concession, COHCHR addressed a letter to the Minister of Agriculture, Forestry and Fisheries expressing serious concern about the negative impact of timber concessions on the human rights of Hill Tribes. The Minister replied that the Government wished to cooperate with the Cambodia office to solve problems facing ethnic minorities. He also stated that concessions would be given to companies with experience in forest management and that the Government was taking strong measures against illegal logging by the military.

136. The Special Representative emphasizes that illegal logging and the granting of an excessive number of timber concessions violate the human rights of the indigenous population and damage the environment. The Special Representative strongly urges that measures be taken by the Government to protect the living environment and human rights of Hill Tribes and to preserve the environment for the benefit of all the people of Cambodia.

IV. Implementation of new and previous recommendations

137. The General Assembly in its resolution 52/135 and the Commission on Human Rights in its resolution 1998/60 expressed concern about the serious problem of impunity in Cambodia, in particular with regard to unlawful acts by the military and the police. As is clear also from the present report, this issue has continued to be a major theme in the work of the Special Representative. He has pointed out that limited personnel and economic resources have contributed to the deep problems within the court system. The Special Representative has appealed for more assistance for the reform of the system of justice in Cambodia. Bilateral cooperation, mainly with Australia and Japan, has been valuable. The United Nations judicial mentors programme has also been a constructive contribution and can, hopefully, be further developed. However, there is also a need for the Government to give higher priority to comprehensive reform of the system of the administration of justice. Recent statements to that effect by Second Prime Minister Hun Sen are encouraging.

138. The Supreme Council of the Magistracy was finally convened in December 1997. It is hoped that this body will now start effective work. Its role, according to the Constitution, is to oversee the functioning of the judicial system and make appointments to the judiciary. It needs to take strong action to protect the judiciary from political pressure, intimidation by military officers and corruption. Clearly, decisive measures are still needed to establish a genuinely independent court system.

139. The General Assembly and the Commission on Human Rights in their resolutions recommended the repeal of article 51 of the 1994 Law on Civil Servants. This section of the law provides that, except in cases of *flagrante delicto*, no civil servant may be arrested or prosecuted for any crime unless the concerned minister gives his consent in advance. The impact of this provision has clearly been negative and judges have told the Special Representative about their frustration with article 51. The Minister of Justice has indeed

proposed an amendment but no action has been taken to that effect. A proposal ought to be submitted to the new National Assembly as a matter of priority.

140. Serious crimes with a political connotation, including assassinations, have still not been clarified. The two experts who in April 1998 on behalf of the High Commissioner and the Special Representative inquired about the investigations into the hand grenade attack in March 1997 and the killings in July–August 1997 concluded that inquiries, when undertaken, had lacked vigour and determination. They pointed out the necessity of legal and organizational reform and improved professional training within the police and the judiciary, but also stressed the need for clear signals from the highest levels of Government in order to destroy the culture of impunity.

141. After the Government had received the experts' recommendations and the memorandum on further cases of reported killings, it decided to establish the governmental Cambodian Human Rights Committee to initiate investigations into individual cases. The Committee is also charged with proposing structural responses to improve the functioning of the administration of justice. The Committee was also requested to prepare for the establishment of a statutory and permanent National Human Rights Commission. It is important that these tasks be tackled with seriousness and that the Commission be truly independent. The Special Representative has offered to provide international expertise to the Committee, if requested.

142. His Majesty the King, government ministers and leading opposition politicians have reacted positively to the proposal by the Special Representative, supported by the General Assembly, for the provision of international assistance to assist Cambodia in bringing to justice those persons responsible for the genocide and/or crimes against humanity committed during the rule of the Khmer Rouge from 1975 to 1979. A group of experts was appointed by the Secretary-General in August 1998 and will visit Cambodia in September 1998 to assess existing evidence and propose further measures. This is considerable progress and is also an important development in the overall efforts against impunity.

143. Prison conditions in Cambodia continue to be very poor and the problem of the delayed and insufficient provision from the State budget of funds for food and necessities for prisons remains. The co-Ministers of the Interior have, however, opened a constructive discussion on these problems with the Special Representative and have suggested that further international assistance be given for prison reform. The achievements so far of an Australian aid project in this field are appreciated. Again, this is an urgent issue for the new Government.

144. Torture and ill-treatment of arrested persons is another problem which must be put high on the reform agenda. In spite of the efforts by the Ministers of Justice and the Interior, the Special Representative has received new evidence of such serious malpractice. A comprehensive strategy is needed, one aspect of which should be to dismiss and punish policemen who are proven guilty of having used torture. Measures are also required to halt the excessive use among policemen of lethal weapons when trying to capture suspects.

145. Conditions for workers in the garment and other industries are still of concern. The Labour Code is not respected in a number of factories in Phnom Penh and the authorities delay registration of new trade unions.

146. The Special Representative is concerned about the lack of progress in the field of women's rights. The rate of girls dropping out of school is high, especially at secondary level. Women are victimized by domestic violence and their access to public health facilities is insufficient. There is no genuine encouragement of women's participation in political and public life. After the 1998 election, still fewer than 10 per cent of the members of the National Assembly are female.

147. Major efforts are needed to promote and ensure the rights of the child in the field of education, to reform the system of juvenile justice, to end the practice of recruiting minors into the armed forces and to combat other hazardous child labour, including child prostitution.

148. There have been further police actions against persons organizing prostitution, including child prostitution, but additional measures are needed to protect young people from being exploited and to rehabilitate child prostitutes. The Special Representative is particularly concerned about the incidence of HIV infection among prostitutes, including young ones, and the inadequacy of preventive and social measures to address this acute problem.

149. The rights of minorities is another field where further discussion is needed. Improved legal protection against discrimination and racial hatred is needed as was illustrated during the election campaign. The protection of the rights of the indigenous peoples requires strong measures against logging and the appropriation of tribal lands. The Committee on the Elimination of Racial Discrimination addressed a number of recommendations to the Cambodian Government which ought to be acted upon in a systematic fashion. In this field, the international community should be prepared to offer advisory services and other assistance, if requested.

150. Cambodia has ratified all six major international human rights instruments. It has now submitted reports on the implementation of three of these: the International Convention on the Elimination of All Forms of Discrimination, the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child. The reports on the other conventions (the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Elimination of Discrimination against Women and the International Covenant on Economic, Social and Cultural Rights) are overdue and should be given priority by the Government. Though regretting the delays, the Special Representative has expressed his support for the approach taken, which is that the reporting process is used for a thorough discussion on ways of improving the respect for the international standards.

V. Concluding remarks

151. The Special Representative, in accordance with his mandate, has maintained contact with the Government and people of Cambodia. During his three most recent visits he met government representatives and officials at the national, provincial and local levels as well as representatives of political parties and non-governmental organizations. He was also received by His Majesty King Norodom Sihanouk, who continues to give most valuable support for the promotion and protection of human rights in the spirit of the Constitution. The discussions with government representatives have, for the most part, been constructive.

152. In order to fulfil his second task – to guide and coordinate the United Nations human rights presence in Cambodia – the Special Representative has stayed in constant touch with the Cambodia office of the United Nations High Commissioner for Human Rights. The office assists him during his visits in Cambodia as well as during their preparation and follow-up.

153. During his visits the Special Representative has met with the Personal Representative of the Secretary-General in Cambodia and other key representatives of the United Nations system. During the election campaign he maintained close relations with other international representatives, both in order to avoid confusion of roles and to underline the importance of the human rights issues in the elections process.

154. The third task of the Special Representative – to assist the promotion and protection of human rights in Cambodia – is fulfilled through reports like this one. Furthermore, he has continuously raised concrete problems directly with the authorities at central and provincial level. The Special Representative has also argued for international assistance for the promotion of human rights in Cambodia – for reforms of the court and prison systems, education and training of law enforcement personnel, reform of the school system and support to NGOs.

155. In his work, the Special Representative has encountered good will among many Cambodians inside and outside the government structures and the justice system. The importance of NGOs in Cambodia was once again demonstrated during the election period by their impressive voter education and polling efforts. The Special Representative welcomed the news that two of the most active non-governmental groups, ADHOC and LICADHO, were awarded an international prize in July 1998 for their outstanding work for the promotion and protection of human rights in Cambodia.

156. Cambodia still suffers from the misery caused by war and mass repression and killing; this makes it even more important for the international community to support constructive efforts to build a society ruled by law and which protects human rights.

VI. Role of the United Nations High Commissioner for Human Rights in assisting the Government and the people of Cambodia in the promotion and protection of human rights

157. During the period under review the Cambodia office of the United Nations High Commissioner for Human Rights (COHCHR) continued its efforts to assist the Government and people of Cambodia in the transition to democracy, the establishment of the rule of law and respect for human rights. In May 1998, the High Commissioner and the Government agreed to the extension until March 2000 of the memorandum of understanding under which COHCHR operates.

158. The mandate of COHCHR continues to be: (a) to manage the implementation of educational and technical assistance and advisory services programmes and to ensure their continuation; (b) to assist the Government of Cambodia established after the election, at its request, in meeting its obligations under the human rights instruments to which it

has recently adhered, including the preparation of reports to the relevant treaty monitoring bodies; (c) to provide support to bona fide human rights groups in Cambodia; (d) to contribute to the creation and/or strengthening of national institutions for the promotion and protection of human rights; (e) to continue to assist with the drafting and implementation of legislation to promote and protect human rights; (f) to continue to assist with the training of persons responsible for the administration of justice; and (g) to assist the Special Representative in the discharge of his functions.

159. More detailed information on the work of COHCHR is available in the reports submitted to the General Assembly[12] and the Commission on Human Rights.[13]

160. COHCHR continued to provide assistance to the missions of the Special Representative and to coordinate monitoring and investigation of human rights problems in Cambodia. The office continues to translate into the Khmer language the reports and resolutions of the General Assembly and the Commission on Human Rights on the human rights situation in Cambodia and to distribute widely the Khmer-language texts to government officials, the Khmer-language press, NGOs and others.

161. The office provides technical assistance concerning the drafting and implementation of laws to the National Assembly and its various committees, to the Government and its ministries, and to civil society institutions, including non-governmental and media organizations. Once implemented, the office monitors the application of the laws.

162. From January to August 1998, COHCHR focused on the following laws: law on the Constitutional Council (the office closely monitored the selection and appointment of the Council's members and reported deficiencies in the process to the Secretary-General through the Special Representative since they had possible implications for the role of the United Nations in coordinating election observation); law on associations and non-governmental organizations (concerns were expressed to the Government by the Special Representative about provisions in a June 1998 draft which would seriously affect the constitutional principle of freedom of association and in effect prevent many NGOs from operating); Penal Code and Code of Criminal Procedure (these were previously reviewed by an OHCHR consultant, and are currently undergoing further revision); Law on Prevention of Domestic Violence (COHCHR will try to revive support for this legislation which is essential to improve the situation of Cambodian women); law on landmines (the draft reached the Assembly but was not discussed because of more urgent election-related laws); law on disability; law on the statutes of the magistracy.

163. The Proclamation on Administration of Prisons was signed by both co-Ministers of the Interior in March. All prisons now fall under the authority of the Department of Prisons of the Ministry of the Interior. Having participated intensively in the drafting of the Proclamation at an earlier stage, COHCHR continues to monitor its implementation. The office will participate in further discussions on certain contentious articles. Requests for access made by the office under the Proclamation have been agreed upon except in a few politically sensitive cases.

164. In January the Ministry of Information requested comments from COHCHR on two draft executive acts issued under the Press Law: a sub-decree defining national security and political stability and a proclamation on press identification and registration. The office and other human rights organizations expressed their concern regarding provisions which jeopardized the constitutionally guaranteed freedom of expression. These executive acts have not yet been adopted.

165. During the electoral process, the implementation of the election law and the political parties law was closely monitored. Discussions were held with officials of the Ministry of the Interior regarding the process of registering political parties and obstacles to political parties' activities were reported to the Ministry. A Ministry circular which included provisions contrary to the Constitution and the political parties law was discussed. The process of selection and appointment of members of the national and provincial election commissions was documented. Rules, regulations, manuals and instructions issued by the NEC were analysed and legal comments raising human rights concerns and proposed amendments were provided. Complaints regarding the voter registration process, campaign process and polling were followed up by COHCHR with the relevant election commissions. Election-related human rights issues such as the thumbprinting campaign, voter card collection, mock elections, the accreditation of domestic observers, the sites for keeping and counting of the ballots and the use of indelible ink were discussed with the NEC and solutions proposed.

166. In the context of support to the administration of justice, the Judicial Mentor Programme continued its development. The judicial mentors, who are international consultants, are placed in provincial and municipal courts to work alongside Cambodian judges, prosecutors and clerks. Training is offered for judges and prosecutors on the Cambodian Constitution, Cambodian law and international

human rights norms. Mentors answer legal questions which arise in the course of the court's work, and provide training to local police, prison officials, military personnel and government officials. During the reporting period, the programme covered five provinces and two municipalities. Equipment and other material assistance have been provided and court buildings have also been renovated. The Minister of Justice and local authorities have continued to give full support to the programme, which receives financial assistance from UNDP.

167. The Cambodia office continues a wide variety of human rights education and training programmes, in conjunction with its governmental and NGO counterparts, targeted at key sectors of the population including military personnel, police and prison officials, district and communal leaders, teachers, trade unionists, monks and vulnerable groups including women, children and minorities. A training curriculum on workers' rights was completed. A new curriculum on environmental and economic rights of indigenous peoples was developed and training programmes initiated in Cambodia's north-east provinces. In preparation for the 1998 elections a curriculum on human rights aspects of democratic elections was prepared, and training programmes were provided to provincial and communal election commission personnel and the members of NGO observer coalitions. The office continues its programme of technical cooperation to the Inter-Ministerial Committee on Reporting Obligations and its permanent secretariat.

168. At the request of the Government and with the support of UNDP, the Office of the United Nations High Commissioner for Human Rights hired qualified staff and opened offices in Pailin and Phnom Malai to implement human rights education and training programmes for key sectors of the population in areas formerly under the control of the Khmer Rouge that had been previously inaccessible to either the Government or to the United Nations since the Democratic Kampuchea Party withdrew from the United Nations Transitional Authority in Cambodia (UNTAC) peace process in 1992.

169. To carry out its mandates to stimulate human rights activities at the local level, promote civil society and provide support to bona fide NGOs, the Cambodia office provided grants amounting to $300,000 to the provincial and subprovincial offices of the major Cambodian human rights NGOs. Utilizing funding provided by the Government of Denmark, additional grants totalling more than $300,000 were provided to NGOs working in the field of human rights education and the promotion and protection of the rights of women, children and ethnic minorities. Danish funds will also be used to strengthen COHCHR's activities to combat child trafficking and sexual exploitation, which will be undertaken in collaboration with UNICEF and Cambodian and international NGOs.

170. The Cambodia office continues to distribute large quantities of Khmer-language human rights information and materials, including the International Covenants on Human Rights, conventions and declarations, the Cambodia Constitution and relevant laws, and human rights curricula, to ministries and departments of the Government at the national, provincial and communal levels, judges, prosecutors, police, students and the general population. Over 52,000 copies of human rights materials were disseminated in the first six months of 1998. Additionally, 200,000 multicolour posters emphasizing the secrecy of the ballot were distributed through provincial and communal election commissions, COHCHR provincial offices and the NGO election observer coalitions.

171. In order to ensure thorough monitoring of human rights violations which might occur during the electoral period, COHCHR established six mobile monitoring teams in May 1998. These teams, placed in the provinces, provided regular information on the human rights situation and investigated cases as they occurred. Reports of their findings were made public on behalf of the Special Representative and widely distributed. The teams were to continue their work until the establishment of the new Government. The office also closely monitored the access of political parties and NGOs to the print and electronic media during the election period, with a view to ensuring that the right to freedom of expression was respected. Two reports on media access were prepared and published.

172. Six provincial offices of the Cambodia office now exist, established with the support of the United Nations Volunteers programme. In each office, a Cambodian Human Rights Officer is supported by an international United Nations Volunteer Adviser. These offices play a crucial role in supporting the implementation of the office's programmes and collaborating with local human rights NGOs in the monitoring and investigation of human rights violations and abuses.

173. The office participates fully in the work of the United Nations system in Cambodia under the auspices of the Resident Coordinator. The office chairs the United Nations Theme Group on Good Governance, Democracy and Human Rights.

Notes

[1] See *Official Records of the Economic and Social Council, 1993, Supplement No. 3* (E/1993/23), chap. II, sect. A.

[2] A/51/453 and A/52/489; E/CN.4/1997/85 and E/CN.4/1998/95.

[3] E/CN.4/1997/95.

[4] See *Official Records of the Economic and Social Council, 1998, Supplement No. 3* (E/1998/23), chap. II, sect. A.

[5] E/CN.4/1998/95, para. 26.

[6] Ibid., para. 66.

[7] *Official Records of the General Assembly, Fifty-first Session, Supplement No. 40* (A/51/40), vol. I, annex V, para. 19.

[8] See A/52/489, para. 78 and E/CN.4/1998/90, para. 90.

[9] See A/52/489, para. 76 and E/CN.4/1998/91, para. 91.

[10] CERD/C/292/Add.2.

[11] CERD/C/304/Add.54.

[12] Covering the periods February–July 1994 (A/49/635/Add.1); December 1994–July 1995 (A/50/681/Add.1); December 1995–July 1996 (A/51/1996/552); and January–September 1997 (A/52/489).

[13] Covering the periods October 1993–January 1994 (E/CN.4/1994/73); July–November 1994 (E/CN.4/1995/89); July–November 1995 (E/CN.4/1996/92); July–December 1996 (E/CN.4/1997/84) and October 1997–January 1998 (E/CN.4/1998/95). A detailed report of the work of the Cambodia office in 1997 was submitted to the Commission on Human Rights at its fifty-fourth session (E/CN.4/1998/94).